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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

July 2, 2008

CERTIFIED RETURN RECEIPT  
7005 2570 0000 4801 7383

Mike Dalley – Environmental Affairs  
Staker & Parsons Companies  
151 West Vine Street  
Murray, Utah 84107

Subject: Proposed Reassessment for Notice of Violation, N07-58-02, Staker & Parsons Companies, Beck Street Quarry, M0350019, Salt Lake County, Utah

Dear Mr. Dalley:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under State Rule R647-7. Enclosed is the re-assessed civil penalty for the above referenced Notice of Violation. The Notice of Violation was issued by Division Inspector, Beth Ericksen, on December 14, 2007. Rule R647-7-103 et. seq. has been utilized to formulate the re-assessed penalty for the violation. The assigned penalty for this violation, MC-2007-58-02 is \$0. The enclosed worksheet specifically outlines how the violation was re-assessed.

By these rules, any written information, which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation (NOV) has been considered in determining the facts surrounding the violation and the amount of penalty. Since this violation has been terminated, good faith was evaluated and good faith points were assigned.

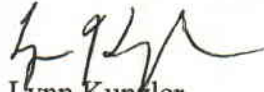
1. If you wish to informally appeal the fact of the Violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or appointed Conference Officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.



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Mike Dalley  
M350019  
July 2, 2008

**If a timely request for review is not made, the fact of the violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the final assessment.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn Kunzler', with a stylized flourish at the end.

Lynn Kunzler  
Assessment Officer

**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

COMPANY / MINE Staker & Parsons Companies/ Beck Street PERMIT M/035/0019

NOV / CO # MN-07-58-02

RE-ASSESSMENT DATE July 2, 2008

ASSESSMENT OFFICER Lynn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event  
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

***Environmental Harm/ Loss of reclamation/revegetation potential***

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *No event has occurred. With the amended plans and compliance with these plans, it is unlikely this event will occur.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *There is no damage at this point, there is low potential for problems with the fines. However, it is expected that reasonable amendments can correct any potential problem with using fines for reclamation.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA  
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS N/A

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

TOTAL SERIOUSNESS POINTS (A or B) 0

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or

lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 7

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*** *The inspector indicated that the operator had been notified of these issues through an October 4, 2007 inspection report. There was also a November 5, 2007 meeting where these issues were discussed. A prudent operator would understand the need to address these identified issues in a timely manner. However, the operator did not follow through on the issues which seems to demonstrate a lack of reasonable care or indifference to the requirements. The lack of reasonable care indicates some negligence, thus the assignment of points in the mid part of the negligence range.*

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

**Easy Abatement Situation**

- Immediate Compliance -11 to -20\*  
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10  
(Permittee used diligence to abate the violation)
- Normal Compliance 0  
(Operator complied within the abatement period required)  
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20\*  
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10\*  
(Operator complied within the abatement period required)
- Extended Compliance 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult

ASSIGN GOOD FAITH POINTS 7

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*** *This is considered to be a difficult abatement because it requires the collection of data and submission of plans to complete the abatement. Operator demonstrated normal compliance with the highwall issue and rapid compliance with the topsoil issue. Good Faith points were assigned at mid point of upper half of normal compliance range.*

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # <u>MN-07-58-02</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>0</u>
III.	TOTAL NEGLIGENCE POINTS <u>7</u>
IV.	TOTAL GOOD FAITH POINTS <u>7</u>
	TOTAL ASSESSED POINTS <u>0</u>
	<b>TOTAL ASSESSED FINE</b> <u>\$ 0</u>